

**Congress of the United States**  
**Washington, DC 20515**

July 2, 2020

The Honorable Alex M. Azar II  
Secretary  
Department of Health and Human Services  
200 Independence Avenue, Southwest  
Washington, D.C. 20201

The Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Secretary Azar and Administrator Verma:

We are writing to ask that you immediately intervene to prevent nursing homes across the United States from evicting residents with little to no notice during the coronavirus disease 2019 (COVID-19) pandemic. The Centers for Medicare & Medicaid Services (CMS) must fulfill its responsibility to ensure that its standards and enforcement are adequate to protect the welfare, safety, and rights of nursing home residents.

We are concerned by recent reports that several U.S. nursing homes have maintained an unofficial policy “to clear out less-profitable residents to make room for a new class of customers who would generate more revenue: patients with Covid-19.”<sup>1</sup> Over 6,000 nursing home residents have reportedly been displaced to homeless shelters, motels, boarding houses, or even sidewalks without consent from the resident or adequate advance notice to the resident or resident representative. Some facilities, likely concerned about the liabilities inherent in eviction, have “pressure[d] residents to leave” and misinformed them of their right to remain.<sup>2</sup>

These actions clearly do not adhere to the statutory requirement that skilled nursing facilities and nursing facilities provide notice “at least 30 days before the resident is transferred or discharged,” “ensure a safe and effective transition of care,” and, most importantly, notify residents of their right to appeal a transfer or discharge to a state administrative law judge.<sup>3</sup> We recognize that CMS has waived these regulations to a certain extent, but those waivers apply only to efforts to “cohort” residents based on COVID-19 status.<sup>4</sup>

Though one facility claimed that these evictions were “appropriate,” we argue that they are not only inappropriate and illegal, but heartless during a global health crisis caused by a highly communicable disease.<sup>5</sup> Many older Americans and individuals with disabilities turn to nursing homes when they require continuous medical care or cannot access home and community-based services. It is unconscionable that they would be betrayed by the facilities they rely on to survive

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<sup>1</sup> New York Times, “‘They Just Dumped Him Like Trash’: Nursing Homes Evict Vulnerable Residents,” June 21, 2020, <https://www.nytimes.com/2020/06/21/business/nursing-homes-evictions-discharges-coronavirus.html?referringSource=articleShare>.

<sup>2</sup> New York Times.

<sup>3</sup> 42 CFR § 483.15.

<sup>4</sup> Centers for Medicare & Medicaid Services, “Long Term Care Facilities (Skilled Nursing Facilities and/or Nursing Facilities): CMS Flexibilities to Fight COVID-19,” <https://www.cms.gov/files/document/covid-long-term-care-facilities.pdf>.

<sup>5</sup> New York Times.


and evicted without notice because they are not as lucrative as a COVID-19 patient. Though the issue of involuntary discharge is unfortunately not new, these evictions now place nursing home residents at risk for disease or death from COVID-19.<sup>6</sup>

Further, CMS has yet to issue any enforcement standards or necessary regulations to ensure safe “cohorting” of COVID-19 patients in nursing homes. As a result, the admission of COVID-19 patients to nursing homes poses its own extreme threat to residents and workers, who are already struggling with inadequate personal protective equipment and staffing support. CMS itself has recognized this danger, as Administrator Verma has been vocally opposed to state policies that require nursing homes to admit COVID-19-positive patients from hospitals.<sup>7</sup>


Your failure to acknowledge the reported evictions of nursing home residents is unacceptable. Over ten days have passed since this report was published and CMS has yet to inform Congress of any action to investigate or rectify the assertions. We urge you to take immediate action to prohibit all future evictions and inform us whether you will launch an investigation into evictions that have occurred no later than Thursday, July 9, 2020.


Thank you for your prompt attention to this request.

Sincerely,

  
JAN SCHAKOWSKY  
Member of Congress

  
DORIS O. MATSUI  
Member of Congress

  
LUCILLE ROYBAL-ALLARD  
Member of Congress

  
AYANNA PRESSLEY  
Member of Congress

  
HAKEEM S. JEFFRIES  
Member of Congress

  
CONOR LAMB  
Member of Congress

  
DEBBIE DINGELL  
Member of Congress

  
TED DEUTCH  
Member of Congress

<sup>6</sup> Lepore MJ, Yuen PK, Zepeda S. Nursing Home Facility-Initiated Involuntary Discharge. *J Gerontol Nurs*. 2019;45(8):23-31. doi:10.3928/00989134-20190709-03.

<sup>7</sup> Skilled Nursing News, “Verma Defends CMS Response to COVID-19 in Nursing Homes: Blaming Feds ‘Absolutely Ridiculous’,” June 4, 2020, <https://skillednursingnews.com/2020/06/verma-defends-cms-response-to-covid-19-in-nursing-homes-blaming-feds-absolutely-ridiculous/>.